REMARKS

This amendment is responsive to the Office Action dated June 1, 2004. Claims 1-4, 6, 8, 12, 14-15, and 17-18 are amended herein. Claims 21-22 have been canceled without prejudice to resubmission. Claims 1-20 will be pending in the present application upon entry of this amendment. Support for the amendments to claims 1-4, 6, 8, 12, 14-15 and 17-18 can be found on page 3, lines 13-17, page 4, lines 15-24, in the figures and in the claims as originally filed.

Rejection under 35 U.S.C. § 112

The Examiner has rejected claims 21 and 22 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 21-22 have been canceled without prejudice in order to obviate this rejection. Accordingly, withdrawal the rejection to claims 21 and 22 under 35 U.S.C. § 112, second paragraph under is respectfully requested.

Rejection under 35 U.S.C. § 102

The Examiner has rejected claims 1-3, 5-13 and 17-21 under 35 U.S.C. § 102 (b) as being anticipated by Patterson, U.S. Patent 1,846,751 (hereinafter "Patterson"). In particular, the Examiner stated:

> Patterson '751 discloses terry woven fabric goods such as "towels, bath mats, and wash cloths." The examiner considers a terry woven fabric, which can be used as a bath mat to also be inherently capable of functioning as a "woven exercise rug". The general definition of a rug being "a piece of thick heavy fabric that usually has a nap or pile and is used as a floor covering (From Merriam-Webster dictionary)." Looking to figures 1 and 2, the woven fabric shows a central portion 1 which is smooth, and an upper portion directly above central portion 1 and a lower portion directly below central portion 1. In both of these areas there are variations in the pile height at 6 (flat portions) and 2, 3, 4 (contoured portions). These variations would cause an increase of frictional (traction) properties of the contoured areas in relation to the central portion 1 of the fabric as recited in claim 1.

See page 3 of the Office action.

Anticipation under 35 U.S.C. § 102 is established when a single prior art reference discloses, either expressly or under the principles of inherence, each and every element of a claimed invention. See, RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1443, 221 U.S.P.Q. 385, 388 (Fed. Cir. 1984), *cert. Dismissed sub nom.*, Hazeltine Corp. v. RCA Corp.,

468 U.S. 1228 (1984). The law of anticipation requires that the reference must provide all limitations of the claim. See, Kalman v. Kimberly Clark Corp., 713 F.2d 760, 722, 218 U.S.P.Q. 781, 789 (Fed. Cir. 1983) *cert. denied*, 465 U.S. 1026 (1984) (and overruled in part on another issue) 775 F.2d 1107, 227 U.S.P.Q. 577 (Fed. Cir. 1985).

Patterson discloses a bath mat having a rectangular terry surface constituting the main portion of the mat and three narrow frames of terry or pile weaving encompassing the main or enclosed portion. (See Patterson, column 1, lines 25-30). In Patterson, the structure relied on by the Examiner as being the "contoured portions" frame the bath mat (see Fig. 1).

Applicant has amended claim 1 to include the limitation that the longest dimension of the contours is substantially perpendicular to the longest dimension of the exercise surface. Basis for this amendment can be found in the figures of the present application. In Patterson the longest dimension of the contours is parallel to the longest dimension of the exercise surface. Thus, Patterson does not teach contours that run substantially perpendicular to the longest dimension of the exercise surface, as are now claimed.

Because Patterson fails to disclose all the elements of claim 1, Patterson does not anticipate claim 1. Applicant respectfully submits that, because independent claim 1 is not anticipated by Patterson, dependent claims 2-20 are also not anticipated. Accordingly, favorable consideration and withdrawal of the rejection over Patterson under 35 U.S.C. § 102(b) is respectfully requested.

Rejection under 35 U.S.C. § 103(a)

The Examiner has rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Patterson '751. Specifically, the Examiner stated "[a]lthough Patterson teaches essentially all of the limitations of the instant invention, Patterson does not explicitly show that the area of the central portion is larger than the combined area of the upper and lower contoured portions of the rug as recited in claim 4." See page 4 of the Office Action. The Examiner further stated:

> However, with respect to the limitation, the specification contains no disclosure of either the critical nature of the claimed limitation or any unexpected results arising therefrom, and that as such the limitations are arbitrary and therefore obvious. Such unsupported limitations cannot be a basis for patentability, since where patentability is said to be based upon particular dimensions or another variable in the claim, the applicant must show that the chosen variables are critical.

See page 5 of the Office Action.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 265 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Patterson discloses a bath mat having a rectangular terry surface constituting the main portion of the mat and three narrow lines of terry or pile weaving encompassing the main or enclosed portion. (See Patterson, column 1 lines 25-30). In Patterson the "contoured portions" frame the bath mat (see Fig. 1). Applicant has amended claim 1 to include the limitation the longest dimension of the contours is substantially perpendicular to the longest dimension of the exercise surface. In Patterson the longest dimension of the contours is parallel to the longest dimension of the exercise surface. Thus, Patterson does not teach contours that have a longest dimension that runs substantially perpendicular to the longest dimension of the exercise surface, as are now claimed.

The framing or encircling of an exercise surface using contours as taught by, Patterson, including contours that run parallel the longest dimension of the exercise surface, has the disadvantage that it would reduce the available non-contoured area of the exercise surface without providing a substantial benefit to the user since contours parallel to the longest dimension of the exercise surface are of little potential value in increasing friction for the user. Applicant has found that contours that are substantially perpendicular to the longest dimension of the rug provide the needed grip for the user for the types of exercise (i.e. yoga) that are to be carried out on the woven exercise rug. Similarly, when all of the contours are substantially perpendicular to the longest dimension of the exercise surface, the potential for maximizing the non-contoured portion relative to the total area of the rug is increased, thus eliminating the need for a larger rug to provide the same non-contoured area for exercise.

It is submitted that the present invention, as claimed in the amended claims, is non-obvious over Patterson at least because Patterson does not teach contours that have a longest dimension that runs substantially perpendicular to the longest dimension of the exercise surface, as are now claimed. As a result, at least one limitation of the present claims is not taught or suggested by

Patterson. Moreover, the Examiner has not provided any evidence that a skilled person would be motivated to modify the subject matter of Patterson to arrive at the invention as presently claimed. Accordingly, all of claims 1-20, as amended, are considered to be patentable over Patterson. Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn upon reconsideration.

The Examiner has rejected claims 14-16 under 35 U.S.C. § 103(a) as being unpatentable over Patterson in view of Kobe et al. U.S. Patent 6,372,323 (hereinafter Kobe et al.). In particular, the Examiner stated, "Patterson does not teach the contours being formed by the attachment of a separate layer of material, attached to the upper and lower portions." See page 5 of the Office Action. The Examine further stated, "Kobe '323 teaches a slip control article, which is composed of a plurality of backing layers and upstanding stems that give the frictional properties of the article." See page 5 of the Office Action.

Kobe et al. discloses a gripping surface for slip control that is formed as a sheet for wrapping around another article or it is molded into a form for use as sport equipment grips, or non-slip walkways for swimming pools and bathtubs for example. See column 1, lines 56-64. Thus, Kobe et al. does not provide the necessary teaching to cure the deficiencies found in Patterson.

Application respectfully submits that the rejection over Patterson in view of Kobe et al. under 35 U.S.C. § 103(a) does not provide the required teaching of contours that have a longest dimension that is substantially perpendicular to the longest dimension of the exercise surface. As claims 14-16 depend from claim 1, Applicant respectfully submits that, because independent claim 1 is not obvious over the cited references, dependent claims 14-16 are also not obvious. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn upon reconsideration.

Conclusion

In view of the foregoing amendments and remarks, it is believed that this application has been placed in condition for allowance. An early action to that effect is cordially requested.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for this Response, or credit any overpayment to Deposit Account No. 50-0462.

In the event that an extension of time is required, or may be required, the Commissioner is hereby requested to grant a petition for that extension of which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-0462.

Respectfully submitted,

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